

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding the
Implementation of the Suspension of Direct
Access Pursuant to Assembly Bill 1X and
Decision 01-09-060.

Rulemaking 02-01-011
(Filed January 9, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING IMPLEMENTATION OF DA/DL COST
RESPONSIBILITY OBLIGATION**

This ruling prescribes the process and schedule to enable the Commission to finalize the total cost responsibility obligations of Direct Access (DA) and Departing Load (DL) customers applicable to 2001-02 and also for 2003 and 2004 within this proceeding.¹ The California Department of Water Resources (DWR), in conjunction with the three major electric investor-owned utilities (IOUs), shall perform the necessary modeling to determine the applicable cost elements in accordance with the process explained below.

DWR shall calculate cost responsibility obligations for the period 2001-02, and also for 2003 and 2004, for applicable DA and DL customers and shall serve parties in this proceeding with the results of those calculations on November 24, 2003. A technical workshop shall be convened at 10 a.m. on

¹ ALJ Peter Allen issued a ruling in Application (A.) 00-11-038 *et. al*; dated November 4, 2003, granting certain parties' motion to strike relating to testimony relating to Direct

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December 16, 2003 for parties to discuss the DWR calculations of the DA/DL obligations and to seek consensus on the approaches used and values produced, or at least to narrow any areas of disagreement. On January 5, 2004, parties shall then have the opportunity to file comments in response to the cost responsibility results computed by the Navigant modeling runs.

After taking into account parties' comments, further appropriate action will be determined to provide a complete record to adopt total cost responsibility obligations for DA and DL customers for the periods in question.

I. Methodology for Producing the Calculations

The cost responsibility calculations must conform with the "total portfolio" approach adopted in Decision (D.) 02-11-022 for measuring bundled customer "indifference." D.02-11-022 adopted policies and procedures, but deferred quantification of the actual DA cost responsibility amount pending determination of the adopted costs for DWR and related utility retained generation (URG) costs. The finalized DA cost responsibility must incorporate resource assumptions, including the prices and quantities of off-system sales, consistent with the DWR revenue requirements implemented by the Commission for bundled utility customers in A.00-11-038 *et al.*

By Administrative Law Judge (ALJ) ruling dated June 24, 2003, comments were solicited concerning coordination between this proceeding and the DWR proceeding in A.00-11-038 *et al.* in determining the total cost responsibility obligation of DA and departing load in conjunction with finalizing the total DWR revenue requirements for 2001-02 and 2003. Further direction concerning

Access issues. This ruling provides a forum for those Direct Access issues to be addressed within the scope of Rulemaking (R.) 02-01-011 as outlined herein.

coordination, scheduling, and finalization of cost responsibility is discussed below.

II. Issues Concerning URG in the Calculation of Indifference Costs

Under the cost responsibility approach adopted in D.02-11-022, DA customers bear a “fair share” portion of both DWR costs and designated “above-market” URG costs necessary to keep bundled customers “indifferent” on a “total portfolio” basis. In D.02-11-022, above-market URG costs were defined as costs in excess of a designated market benchmark set at 4.3 cents/kWh for 2003. The “above-market” URG costs were intended to capture DA customers’ respective share of so-called “tail competition transition charge” (CTC) costs. The DA obligation both for DWR charges and “above-market” URG costs for the period since DA suspension on September 20, 2001 continuing through 2002 must be determined, as well as for 2003. The IOUs must therefore coordinate with DWR/Navigant to provide relevant URG cost data to compute indifference costs consistent with D.02-11-022.

An ALJ ruling dated August 4, 2003 provided for comment concerning outstanding issues with respect to finalization of the “total portfolio” equation relating to URG/CTC costs, and procedural measures required for adoption of applicable cost responsibility values for 2001-02 and 2003. In comments filed August 22, 2003, parties express conflicting views concerning how the URG component of the DA cost responsibility should be determined, and what treatment, if any, should apply to DA and DL customers’ obligations with respect to CTC. In their comments, parties raised the following issues.

A. Source Data for URG/CTC Costs to Compute “Total Portfolio” Indifference

The California Manufacturers & Technology Association (CMTA) raised the issue of what URG source data should be used to compute the “total portfolio” indifference cost. CMTA proposes use of URG revenue requirements adopted in D.02-04-016 (which adopted interim URG revenue requirements for 2002) to calculate CTC for 2001-02 and 2003.

PG&E proposes to use the same URG forecast assumptions that DWR used to derive DWR power charges for the 2001-02 and 2003 periods in finalizing DA cost obligations for these periods. As stated in comments filed August 22, 2003, PG&E believes the URG input data contained in the worksheet PG&E-DA for 2001-02 and 2003 previously supplied DWR in the DA CRS cap phase of this proceeding are sufficient, and that no additional input is needed to finalize the DA obligation for 2001-02 and 2003. PG&E finds no point in breaking out the DA indifference amount at least for 2001-2003, between a CTC and DWR component. PG&E argues that the total DA obligation to bundled customers is the same whether CTC and DWR are broken into two components or not.

SCE proposes to use recorded URG expense to calculate CTC for 2001-02 and to provide its own independent forecast for 2003 costs, rather than using either of the forecast sources proposed by CMTA or PG&E. In its comments filed August 22, 2003, SCE proposes to supplement the record for purposes of finalizing the DA cost obligation by submitting testimony on URG costs to include: (1) recorded URG expenses for 2001 and 2002, including employee-related transition costs, and (2) forecast fuel and purchased power expenses for 2003. SCE also proposes to include a forecast of its URG costs for 2003 based on its General Rate Case filing, its 2003 authorized SONGS ICIP revenue requirement, and its April 1, 2003 ERRRA filing.

SDG&E does not believe any further review of its CTC component should be undertaken at this time. SDG&E asks that the Commission not consider further proceedings to change the CTC component at least until SDG&E's Assembly Bill (AB) 265 balancing account has been reduced to zero, as specified in D. 02-12-064.

Directives concerning source data for finalizing the URG/CTC component of the DA "total portfolio" indifference cost are addressed below.

**B. Updating of the 4.3 cents Proxy
Adopted in D.02-11-022**

SCE seeks guidance as to how long before the 4.3 cents/kWh benchmark adopted in D.02-11-022 for purposes of computing CTC will be updated.

In D.03-07-030, the Commission determined that any tail CTC component of the DA CRS covering the 2001-02 historic period and 2003 prospective period will be adopted through this rulemaking proceeding. D.02-11-022 adopts the 4.3 cents/kWh proxy for 2003, and thus, that value should be applied in calculations of CTC through 2003. D.02-11-022 also specifies that the value should be updated annually. For 2004 and thereafter, the Commission determined that CTC values are to be decided in the annual Energy Resource Recovery Account (ERRA) proceeding for each utility. The question of what updated value, if any, should replace the 4.3 cents/KWh for purposes of the DA cost responsibility obligation for 2004 and beyond should be coordinated with the respective ERRA proceedings. Thus, any party proposing an update to the 4.3 cents/kWh proxy for 2004 should take up the matter in the appropriate ERRA proceeding.

**III. Process and Schedule for Finalizing
of 2001-02 Cost Responsibility**

DWR/Navigant is hereby directed to perform the necessary calculations under the Commission's DA-in/out total portfolio indifference cost methodology adopted in D. 02-11-022 to compute the total DA/DL cost obligation for 2001-02. The assumptions underlying DWR's calculations shall be made on a consistent basis with the 2001-02 true up values that are being developed in A.00-11-038 *et. al.*

Pursuant to the ruling issued September 25, 2003 in A.00-11-038 *et. al.*, parties in that proceeding submitted testimony and hearings have been held concerning the appropriate adjustments to DWR cost allocations to finalize the 2001-02 true up. Accordingly, the record from A.00-11-038 *et. al.* is now available as input for DWR to calculate and submit in this proceeding the applicable DA cost obligation and undercollection for 2001-02 on a consistent basis with the true up of DWR costs to be adopted in A.00-11-038 *et. al.*

DWR shall confer with each of the IOUs, as necessary, to identify and obtain any necessary supporting URG-related cost data for the 2001-02 period required for purposes computing the "total portfolio" indifference costs in accordance with the methodology outlined in D.02-11-022. The IOUs shall provide DWR with relevant URG costs for the 2001-02 period to be incorporated into the total portfolio calculations of DA cost responsibility.

SCE shall serve on parties of record the supplemental recorded data it has requested as noted above on parties on December 8, 2003. PG&E and SDG&E are also directed to provide necessary recorded URG data to Navigant to the extent it has not already been provided as necessary to compute 2001-02 "total portfolio" costs in conformance with D.02-11-022. This data shall be served on parties of record by December 8, 2003 to the extent the data has not already been

provided as part of the record for this proceeding. As noted in the discussion of URG issues above, to the extent that some parties hold the position that the 2001-02 URG component of the calculation should be applied based on other than recorded historic costs, such parties may submit alternative calculations of DA cost responsibility for the Commission's consideration to be due on December 8, 2003.

**IV. Process and Schedule for
Finalizing of 2003 Cost Responsibility**

DWR, in cooperation with the IOUs, is also directed to compute the 2003 cost responsibility obligation applicable to DA and DL customers in accordance with the "total portfolio" indifference approach adopted D.02-11-022. Since the 2003 DWR revenue requirement has been implemented in D.03-09-018, the necessary inputs can now be applied to determine the actual DA/DL cost responsibility for the 2003 DWR revenue requirement to reflect modeling and resource assumptions consistent with those applied in D.03-09-018.

In D.03-09-018, the Commission implemented adjustments to reduce the 2003 DWR revenue requirement by \$1.002 billion, and directed that designated bundled utility customers receive a one-time bill credit to reflect the 2003 DWR revenue reduction. The Commission further stated that issues relating to impacts of the 2003 DWR revenue reduction on DA and DL customers were to be addressed in R.02-01-011. Determination of the impacts of the 2003 DWR revenue requirement reduction on DA/DL customers is integral to the determination of the total cost responsibility obligation for each of group of DA/DL customers, and/or billing credits that may be warranted. As noted above, DWR and the IOUs shall coordinate to identify and incorporate applicable URG/CTC values for 2003 for purposes of determining total portfolio indifference.

The IOUs shall provide necessary data inputs to DWR/Navigant regarding URG costs to provide for calculation of “total portfolio” indifference costs consistent with their comments filed on August 22, 2003, as summarized above. SCE shall file and serve on all parties on December 8, 2003 the supplemental 2003 data on URG costs, as identified in its comments. PG&E and SDG&E are also directed to file and serve on any necessary URG data provided to Navigant to the extent it is not already part of the record as necessary to compute 2003 “total portfolio” costs in conformance with D.02-11-022.

The “total portfolio” indifference calculations and allocations of cost responsibility among DA/DL customer groups will be discussed at the technical workshop scheduled for December 16, 2003.

Parties may file comments on January 5, 2004 on the proposed cost responsibility calculations.

**V. Process and Schedule for
Finalizing of 2004 Cost Responsibility**

For purposes of 2004 costs, an ALJ ruling in A.00-11-038 *et. al.*, bifurcated the proceeding to provide for an interim allocation of 2004 DWR costs using the same allocation approach as was adopted for 2003 costs, and for a subsequent phase to address final 2004 cost allocations. For 2004, therefore, DWR shall likewise produce on November 24, 2003 the calculations of DA indifference costs on a basis consistent with the interim 2004 DWR allocations being developed in the record in A.00-11-038 *et. al.* Because the URG/CTC component for 2004 is subject to determination in the ERRA proceeding, DWR and the IOUs will need to coordinate with the record in those proceedings to incorporate, as necessary, relevant 2004 URG/CTC data in the DA CRS indifference calculation.

**VI. Assignment of 2001-2004 Cost Responsibility
Among DA and DL Customer Groups**

The cost responsibility calculations apply both to DA customers as well as Customer Generation Departing Load and Municipal Departing Load. Since the Commission has required both DA and DL customer groups to bear their fair share of cost responsibility, applicable DA and DL load data must be identified by the IOUs and utilized in conjunction with DWR modeling runs to determine the respective assignment of cost responsibility for each of the periods outlined in this ruling.

As part of the December 16, 2003 workshop, participants should seek consensus on the appropriate assignment of cost responsibility among the applicable DA and DL customer categories in each IOU territory. The applicability of a DWR power charge depends upon the relevant classification of the customer group involved, including reference to the governing provisions adopted in D.03-04-030 (for different categories of Customer Generation DL) and D.03-07-028 (for categories of Municipal DL).

Modesto Irrigation District has also raised the issue that Municipal DL customers served by publicly owned utilities (such as Modesto) cannot be assessed CTCs using the methodologies established for DA and self-generation DL customers, and that no CTCs can be imposed on any departing load served by a publicly owned utility except as authorized by AB 1890. Modesto argues that since PG&E's authorization to collect CTC from departing load customers under its tariff "E-Depart" expired on or before March 31, 2002, PG&E should not be granted a retroactive CTC rate through this proceeding.

A workshop report shall be produced by Energy Division, in cooperation with workshop participants, summarizing areas of agreement and remaining disputed issues as a result of the workshop. The workshop report shall be filed

and served within five working days following conclusion of the workshop. To the extent that parties cannot reach consensus on the allocation of cost responsibility among DA and DL customer groups through the workshop, a subsequent schedule shall be set for parties to file proposals and replies concerning disputed issues.

After the workshop report is mailed and responsive comments are filed on January 5, 2004, as directed above, further procedural measures will be considered leading to the implementation of any necessary utility tariff revisions to finalize and adopt the respective cost responsibility obligations for each customer group.

To the extent the final DA or DL CRS obligations exceed the 2.7 cents/kWh currently subject to collection from DA customers, the shortfall will be accounted for as an adjustment to the DA CRS undercollection, subject to the accounting procedures as prescribed in D.02-11-022 and D.03-07-030.

To the extent that the obligation for any category of DA or DL customers as determined by the Commission yields a cost responsibility that is less than the CRS currently billed to that customer category, a calculation shall be made of the amount to be rebated to that customer category. Further steps will be considered, as needed, to implement measures to rebate any appropriate surplus to the applicable categories of DA/DL customers.

IT IS RULED that:

1. DWR, in coordination with the three investor-owned utilities, is hereby directed to produce the requisite calculations necessary to determine the applicable DA/DL cost responsibility obligations for the 2001-01 recorded period and for 2003 and 2004, to be filed and served on November 24, 2003.

2. The IOUs shall coordinate with DWR in producing the requisite URG/CTC data, as discussed above, necessary to calculate “total portfolio” indifference costs on a recorded basis for 2001-02 and on a forecast basis for 2003 and 2004.

3. DWR shall calculate the 2001-02 DA/DL recorded cost responsibility obligation on a consistent basis with the DWR 2001-02 true up values being developed in A.00-11-038.

4. The 2003 DA/DL obligation shall be determined on a consistent basis with resource assumptions and allocations underlying the 2003 DWR revenue requirement put in effect by D.03-09-018.

5. The calendar year 2004 DA/DL obligation shall be determined consistent with the resource assumptions and allocations underlying the 2004 DWR revenue requirement being developed as an interim phase in A.00-11-038 *et. al.*

6. Applicable DA and DL load data for each respective year must be identified by the IOUs, in coordination with DWR, to compute the respective assignment of cost responsibility among each applicable category of DA and DL customers.

7. Upon production of the resulting cost responsibility calculations as outlined above, DWR shall file and serve the resulting model runs upon parties on November 24, 2003.

8. SCE shall file supplemental data on December 8, 2003 for purposes of finalizing the DA cost obligation with URG costs to include: (1) recorded URG expenses for 2001 and 2002, including employee-related transition costs, and (2) 2003 URG-related costs, as described in its August 22, 2003 comments.

9. PG&E and SDG&E shall file any supplemental URG data on December 8, 2003 that has not already been made part of the record but that is used to finalize the indifference cost calculations pursuant to this ruling.

10. Other parties may present alternative calculations of DA/DL cost responsibility to be due on December 8, 2003.

11. A workshop shall be scheduled for December 16, 2003, starting at 10:00 a.m. at the Commission's Courtroom, 505 Van Ness Avenue, San Francisco. The workshop shall be hosted by the Commission's Energy Division, and parties will have the opportunity to ask questions and to seek consensus concerning DWR/Navigant's calculations.

12. A workshop report shall be produced by Energy Division, in cooperation with workshop participants, summarizing areas of agreement and remaining disputed issues as a result of the workshop. The workshop report shall be filed and served within five working days following conclusion of the workshop.

13. Parties shall have the opportunity to file and serve comments in response to the DA/DL cost responsibility modeling runs on January 5, 2004.

14. Based on the results of the calculations produced through the modeling process, and in response to any comments filed thereon, further steps will be considered, as necessary to finalize and adopt applicable cost responsibility obligations.

Dated November 14, 2003, at San Francisco, California.

/s/ Thomas R. Pulsifer

Thomas R. Pulsifer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Implementation of DA/DL Cost Responsibility Obligation on all parties of record in this proceeding or their attorneys of record.

Dated November 14, 2003, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.